

**DURHAM, NORTH CAROLINA  
MONDAY, FEBRUARY 16, 2004  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: Assistant City Manager Sharon Laisure, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read a proclamation recognizing Betty Pittard on her retirement after 23 years of service with the City of Durham. The Mayor also noted City Manager Marcia Conner would not be present tonight due to illness in her family.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. Assistant City Manager Sharon Laisure requested that Consent Agenda #22 [Lease Agreement - USA BASEBALL] be pulled and referred back to the administration to finalize the lease agreement, GBA #23 [USA BASEBALL TEAM OFFICES AND TEAM CLUBHOUSE AT DBAP] be pulled and referred back to the administration for re-bidding due to deficiencies in the bid package and requested that Supplemental Agenda Item #32 [Centre Parking Deck Engineering Study] be added to the agenda. Also, she noted there will be a HUD disclosure made regarding Mayor Bell and UDI and a status report on the landfill fire.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the City Manager's priority items was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Assistant City Manager Laisure recognized Interim Housing Director Constance Stancil who read the following disclosure statement for the record:

Good Evening, Mayor Bell, Council Members, City Manager Conner, and Attorney Blinder:

My name is Constance Stancil.

I come before you tonight to make a public disclosure of a potential Conflict of Interest as required by the Code of Federal Regulations section (570.611) involving Mayor William V. Bell.

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This public disclosure is in connection with the request by the City of Durham to the Department of Housing and Urban Development to be allowed to enter into a contract between the City of Durham and UDI, CDC a nonprofit corporation to purchase two existing town homes from the City that are a part of the Mangum Court Housing Community for the purpose of rehabilitating the homes for sale to low-moderate families.

Mayor Bell, who is employed as an Executive Vice President of UDI, Community Development Corporation would not execute the contract for UDI and states that he would not be involved in any manner in the administering or overseeing performance of the contract by UDI.

Mayor Bell made comments on this disclosure stating this is a project that the City was engaged in with UDI, CDC long before he became the Mayor of the City of Durham and is a continuing project.

In addition, Interim Housing Director Constance Stancil noted in FY 1992 –93, CDBG funds were allocated to the project and UDI was not involved at this time since Neighborhood Housing Services was the owner of the property.

Solid Waste Director Al Davis reported on the fire at the compost facility noting it was extinguished on last Friday and that staff will bring back a recommendation on how to prevent a similar fire from happening in the future.

There were no priority items from the City Attorney and City Clerk.

Mayor Pro Tempore Cole-McFadden thanked Mr. Davis for his report on the landfill fire.

Council Member Clement commended Budget Director Julie Brenman and her staff for the well-conducted and informative retreat.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 8 [Two-Thirds General Obligation Bonds] and 28 [Stormwater Ordinance – Private Property Project Appeals] were pulled. Relative to Consent Agenda #5 [Resolution Memorializing Sam Moore], Council Member Clement and LaVonia Allison made comments acknowledging the life and work of Mr. Sam Moore.

**MOTION** by Council Member Stith seconded by Council Member Clement to approve the Consent Agenda as amended was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES – CITY CLERK'S OFFICE**

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**MOTION** by Council Member Stith seconded by Council Member Clement to approve the City Council Minutes for the January 20, 2004 Regular City Council and Special City Council Meetings; and

To approve City Council action taken at the January 22, 2004 City Council Work Session was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: PASSENGER VEHICLE FOR HIRE COMMISSION – APPOINTMENTS**

**MOTION** by Council Member Stith seconded by Council Member Clement to reappoint Diane Wright to represent Substance Abuse and to appoint Hatim Elzubair to represent Permit Holder on the Passenger Vehicle for Hire Commission with terms expiring on January 1, 2007 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: EQUAL BUSINESS OPPORTUNITY PROGRAM ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF APPLICATIONS**

**MOTION** by Council Member Stith seconded by Council Member Clement to receive and accept applications for citizens to fill seven (7) vacancies on the newly established Equal Business Opportunity Program Advisory Committee representing the following categories. The terms will be two-year terms. However, initial terms will be staggered was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Two SDBE Construction Firm Owners  
One Non-SDBE Construction Firm Owner  
Two SDBE Professional Services Firm Owners  
One Non-SDBE Professional Services Firm Owner  
One SDBE Non-Professional Services Firm Owner

**SUBJECT: RESOLUTION MEMORIALIZING SAM MOORE**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt a “Resolution Memorializing Samuel (Sam) Elsworth Moore” was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**Resolution # 9086**

**SUBJECT: VOLUNTARY PETITION ANNEXATIONS RECEIVED PRIOR TO JANUARY 1, 2004**

**MOTION** by Council Member Stith seconded by Council Member Clement to accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-58 and 160A-31; and

To adopt resolutions establishing public hearings for March 1, 2004 on the following submitted voluntary annexation petitions was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

- NC 55 / Alexander Drive Property
- Stonehill Estates II Cluster Development

**Resolution #s 9081 - 9082**

**SUBJECT: VOLUNTARY PETITION ANNEXATIONS RECEIVED PRIOR TO JANUARY 1, 2004**

**MOTION** by Council Member Stith seconded by Council Member Clement to accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-58 and 160A-31; and

To adopt a resolution establishing a public hearing for March 1, 2004 on the following submitted voluntary annexation petition was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

- Massey Chapel Road Assemblage

**Resolution #9083**

**SUBJECT: CONTRACTS**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute contracts on the list; and

To authorize the City Manager to make changes to contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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<b>Contractor</b>	<b>Contract Description</b>	<b>Dept</b>	<b>CT Amt</b>
C. B Anderson	Appraisal 6408 6412 Fayetteville Rd	Gen Ser	\$5,000.00
Leslie Sparks	Official	P&R	\$1,500.00
Alissa Price	Official	P&R	\$1,500.00
Austin Johnson	Official	P&R	\$1,500.00
Denis McNeil	Facility Attendant	P&R	\$2,000.00
Krista Phillips	CT Amendment increasing Contract Total Amount	P&R	\$1,200.00
Donovan Zimmerman	Puppeteer	P&R	\$ 300.00
Mary Beth Boxler	CT Amendment increasing Contract Total Amount	P&R	\$1,500.00
Historical Preservation Society of Durham	CT Amendment-Extending expiration date of CT	Planning	na
Eva Morgan	Yoga Instructor	P&R	\$2,350.00
Jose Mendoza	Official	P&R	\$1,500.00
Chaunesti Lyon	Senior Games Coordinator	P&R	\$3,780.00
Olegierd Pucilowski	Official	P&R	\$1,500.00
Szymon Pucilowski	Official	P&R	\$1,500.00
Elvin Fields	Judo Instruction	P&R	\$ 720.00

**SUBJECT: GENERAL OBLIGATION REFUNDING BONDS, SERIES 2004 –  
FINAL REPORT**

**MOTION** by Council Member Stith seconded by Council Member Clement to accept the report from the Finance Department on the General Obligation Refunding Bonds, Series 2004; and

To adopt an Ordinance Amending the 2003-04 City of Durham Budget Ordinance, the same being 12814 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #12917**

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF 48.01  
LINEAR FEET (3,575.5 SQUARE FEET) OF SHERIDAN DRIVE  
RIGHT-OF-WAY (SC03-01)**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt a resolution to set the public hearing on the proposed closing of 48.01 linear feet (3,575.5 square feet) of Sheridan Drive for March 1, 2004 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**Resolution #9084**

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF 190.25 LINEAR FEET (5,549 SQUARE FEET) OF WATKINS ROAD RIGHT-OF-WAY (SC03-19)**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt a resolution to set the public hearing on the proposed closing of 190.25 linear feet (5,549 square feet) of Watkins Road for March 1, 2004 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9085**

**SUBJECT: WATER EXTENSION AGREEMENT WITH LAFARGE BUILDING MATERIALS, INC. – HOOVER STREET FACILITY**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water extension agreement with Lafarge Building Materials, Inc. to serve Hoover Street Facility was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH BILLSCO, INC. – SOUTH ADAMS PARK**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with Billsco, Inc. to serve South Adams Park was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH FREEMAN AND WILLIE LEDBETTER, INDIVIDUALS – 1609 AND 1611 MORELAND AVENUE**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with Freeman and Willie Ledbetter, Individuals to serve 1609 and 1611 Moreland Avenue was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH SUN FOREST SYSTEMS, INC. – HIGHLAND PARK SUBDIVISION**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with Sun Forest Systems, Inc. to serve Highland Park Subdivision was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH ROCKY RILL, LLC. – ROCKY RILL TOWNHOUSE SUBDIVISION**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with Rocky Rill, LLC to serve Rocky Rill Townhouse Subdivision was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH STELIC ENTERPRISES, INC. - STONEYBROOK COTTAGES**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with Stelic Enterprises, Inc. to serve Stoneybrook Cottages was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONSUMER CREDIT COUNSELING SERVICES INCUMBENT WORKER CONTRACT – WORKFORCE INVESTMENT ACT**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute an incumbent Worker Program Contract with Consumer Credit Counseling Service of Durham in the amount of \$50,000; and

To authorize the City Manager to modify the contract before execution, provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT EMBREX, INC. INCUMBENT WORKER CONTRACT – WORKFORCE INVESTMENT ACT (WIA)**

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**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute an Incumbent Worker Program Contract with Embrex, Inc. in the amount of \$29,685; and

To authorize the City Manager to modify the contract before execution, provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: AN INCREASE IN CONTINGENCY FOR PHASES C AND D OF THE AMERICAN TOBACCO TRAIL**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt the Capital Project Ordinance Amendment; and

To authorize the City Manager to increase the construction contract contingency from \$250,000 to \$450,000 to compensate for construction services on the American Tobacco Trail project Phases C & D was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #12916**

**SUBJECT: LEASE AGREEMENT BETWEEN THE CITY OF DURHAM AND USA BASEBALL**

To authorize the City Manager to execute the lease agreement between the City of Durham and the United States Baseball Federation D/B/A USA Baseball; and

To modify the lease agreement provided that the modifications do not increase the cost to the City, or decrease the contributions to be made to the City by USA Baseball.

**Note: This item was pulled and referred back to the administration to finalize the lease agreement.**

**SUBJECT: AMENDMENT TO ENVIRONMENTAL PHASE II ASSESSMENT CONTRACT – ENGINEERING CONSULTING SERVICES**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to amend the contractual agreement with Engineering Consulting Services for an additional \$25,000, to provide a maximum contract amount of \$60,000; and to make minor changes as are consistent with this City Council approval; and



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To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: ADDITIONAL EXPENDITURES FOR CONTRACT ST-212  
STADIUM DRIVE EXTENSION - B & B PAVING COMPANY,  
INCORPORATED**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to amend Contract ST-212 Stadium Drive Extension with B & B Paving Company, Incorporated; and

To authorize the expenditure of \$260,000 from the Stadium Drive Account and the Water Extensions and Improvements Account; and

To amend the original contract amount from \$1,730,000 to \$1,990,000 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: PURCHASE OF ESRI SOFTWARE MAINTENANCE SERVICE  
RENEWAL - ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC.**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute the renewal of an annual agreement with Environmental Systems Research Institute, Inc. for the purchase of software maintenance service in the amount of \$49,304; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: INITIAL CONCEPTUAL DESIGN FOR MULTI-MODAL  
STATION**

To receive a presentation on the Initial Conceptual Design for Multi-Modal Station.

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**Note: This item was moved to the February 19, 2004 Work Session.**

**SUBJECT: CORNWALL DEVELOPMENT COMPANY – BRIGHTLEAF  
SUBDIVISION, OAK GROVE TOWNSHIP**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt a “Resolution Granting Cornwall Development Company Request to Relocate Unknown Family Cemetery Pursuant to N.C.G.S. 65-13” was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9087**

**SUBJECT: AGREEMENT FOR POLICE COOPERATION AND MUTUAL  
AID WITH DUKE UNIVERSITY**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into an Agreement with Duke University for Police Cooperation and Mutual Aid for the extension of law enforcement authority beyond the boundaries of the campus; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: TWO-THIRDS GENERAL OBLIGATION BONDS**

To adopt Capital Project Ordinance Amendments amending ordinance 12816 and 12817; and

To authorize use of the “two-thirds” general obligation bonds to fund ten million dollars of Capital Improvement Program projects.

Audrey Mitchell, President of Walltown Neighborhood Association, spoke in support of funding for the Walltown Recreation Community Center providing Council with a cost estimate and schematic drawings for the Center.

Mayor Bell asked the administration to review schematic drawings and figures and report back with comments.

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Council Member Stith asked staff questions that were answered relative to the impact on waiting until November, the debt service, C. M. Herndon Park and the bond issue.

A motion was made by Council Member Stith seconded by Council Member Best to not authorize use of the two-thirds general obligation bonds to fund \$10 million of Capital Improvement Program projects and to utilize funds identified for C. M. Herndon Park.

Mayor Pro Tempore Cole-McFadden made comments on the possible use of CDBG funds for the Walltown Community Center. She also asked the City Clerk to research any discussion held on this issue.

A representative of Walltown urged Council to not postpone funding for the Walltown Community Center any longer.

Council Member Catotti noted since Council has just received the figures tonight for the Walltown Community Center, this issue should be reviewed during the general budget consideration coming up.

A substitute motion was made by Council Member Catotti to approve the item as printed on the agenda. Motion dies for a lack of a second.

Relative to the Walltown project, Budget Director Julie Brenman briefed Council stating if Council moves forward with the two-thirds bonds one of the requirements is that it be in an already approved capital improvement project that has been approved by Council so this project cannot be funded at this time because it is not in an approved plan.

Council held discussion on speed humps and City Hall renovations.

Julie Brenman provided Council with a listing of streets identified for speed humps.

Council Member Best requested a listing of priority items for City Hall renovations.

**MOTION** by Council Member Stith seconded by Council Member Best to not authorize use of the two-thirds general obligation bonds to fund \$10 million of Capital Improvement Program projects and to utilize funds identified for C. M. Herndon Park **FAILED** at 7:50 p.m. by the following vote: Ayes: Council Member Stith. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Absent: None.

**MOTION** by Council Member Clement seconded by Council Member Best to adopt Capital Project Ordinance Amendments amending ordinance 12816 and 12817; and

To authorize use of the “two-thirds” general obligation bonds to fund ten million dollars of Capital Improvement Program projects was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Catotti and Clement. Noes: Council Members Brown and Stith. Absent: None.

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**Ordinance #s 12914 - 12915**

**Note: After the meeting, Council Member Brown noted his vote should have been in the affirmative. He requested that this item be brought up at the Work Session on Thursday, February 19, 2004.**

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: USA BASEBALL TEAM OFFICES AND TEAM CLUBHOUSE AT DBAP**

To adopt the Capitol Project Ordinance Amendment to fund this project through the issuance of Certificates of Participation; and

To authorize the City Manager to enter into a contract with Hart Brothers Contracting, Inc. in the amount of \$539,000, for the Construction of the USA Baseball offices and clubhouse at the Durham Bulls Athletic Park, 403 Blackwell Street; and

To authorize the City Manager or her designee to negotiate and execute change orders to the Hart Brothers Contracting, Inc. construction contract provided the total cost of all change orders for construction does not exceed \$53,900 and the total construction cost does not exceed \$592,900; and

To authorize the City Manager to modify the contract before execution, provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Vincent Brown, of Hairston Enterprises, made comments noting that he was the lowest bidder (\$495,000) for this project. He expressed concern that this item is being re-bided noting this is an injustice to his company since everyone knows his bid on this project. Mr. Brown urged Council to reconsider what has been done tonight.

Assistant City Manager Laisure explained why the administration is re-bidding this project commenting on the three responses to the bid package that were deemed not acceptable. She noted two responses did not meet the requirements of the SDBE and one response did not meet general requirements of the bid process.

EO/EA Director Debra Giles provided Council with background information on this item commenting on the first bid, second bid, missing documents complying with the SDBE ordinance, unsigned addenda, no documentation showing good faith effort in meeting goals and the hearing process.

Council held discussion on Hairston Enterprises' bid.

Attorney Walter Ricks, representing Hairston Enterprises, made comments on the bid document. He noted that Mr. Brown should have been given an opportunity to present a

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good faith effort showing he did try to utilize WBEs as well as MBEs in the document, but not on the form.

Council Member Brown commented on reference checks being a part of this process.

Council Member Clement expressed concern with this item.

Mayor Bell made comments regarding the staff's checklist.

Council Member Best expressed concern with the entire process.

Assistant City Manager Laisure noted this item will be re-bided for a two-week period and will bring it forward with the USA lease agreement.

**Note: This item was pulled and referred back to the administration for re-bidding.**

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: STORMWATER ORDINANCE – PRIVATE PROPERTY PROJECT APPEALS**

To accept staff's recommendation to continue the program as currently operating.

Mayor Pro Tempore Cole-McFadden noted the motion should read to receive a report rather than to accept staff's recommendation.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a report on the Stormwater Ordinance – Private Property Project Appeals was approved at 8:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: RENEGOTIATED LOAN REPAYMENT AGREEMENT (MARLYNDA W. BODISON)**

To authorize the City Manager to execute the loan repayment agreement with the Borrower in an amount not to exceed \$28,256.92 of Community Development Block Grant (CDBG) funds; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement.

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A motion was made by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve the item as printed on the agenda.

Council Member Stith asked staff if Ms. Bodison has agreed to the terms of the agreement.

Interim Housing Director Constance Stancil noted the loan agreement was delivered to Ms. Bodison, but staff has not heard back from her whether she is in agreement with terms.

Mayor Pro Tempore Cole-McFadden noted that she would get in contact with Ms. Bodison regarding the agreement and requested that this item be deferred to the February 19, 2004 Work Session.

**SUBSTITUTE MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to refer this item to the February 19, 2004 City Council Work Session was approved at 8:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[SUPPLEMENTAL ITEM]**

**SUBJECT: CENTRE PARKING DECK ENGINEERING STUDY – CARTER BURGESS**

**MOTION** by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Carter Burgess in the amount of \$5,100 for an engineering study of the Centre Parking Deck as an amendment to the approved On-Call Professional Services Master Agreement; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 8:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: DURHAM AREA TRANSIT AUTHORITY – APPOINTMENT**

To appoint a citizen to fill one (1) vacancy for a Regular Member on the Durham Area Transit Authority with a term expiring March 1, 2005.

Note: At the February 5th City Council Work Session, Reginald L. Jackson received 3 votes and Jesus A. Sanchez received 3 votes.

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By ballot, the City Council appointed Jesus A. Sanchez as a regular member on the Durham Area Transit Authority with a term expiring March 1, 2005 with four votes.

Council Member Brown requested an excused absence from Thursday's Work Session to attend Essentials of Municipal Government training and Council Member Stith requested an excused absence due to business travel.

**MOTION** by Council Member Clement seconded by Council Member Best to excuse Council Members Brown and Stith from the February 19, 2004 City Council Work Session was approved at 8:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 8:51 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk